

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA :
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HAROLD ARMOND SCALES :

 1:19CR256-1

ORDER

Defendant Harold Armond Scales was indicted on May 28, 2019, (Doc. 1), and charged with one count of possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1). On July 10, 2019, Defendant entered a not guilty plea, (see Minute Entry 07/10/2019), and was provided a Scheduling Order setting his case on the August 2019 Criminal Term. (Doc. 6.) On July 29, 2019, Defendant was charged in a superseding indictment with one count of possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1). (Doc. 11.) Defendant pled not guilty at his arraignment on August 5, 2019, (see Minute Entry 08/05/2019), and was set on the September 2019 Criminal Term. Counsel has been appointed to represent Defendant, (Doc. 8), and has not been relieved of that representation.

Although represented by counsel, Defendant has filed a pro se motion to suppress, (Doc. 18). For the following reasons,

this court finds that Defendant's pro se motion, (Doc. 18), should be denied.

A defendant does not have a right to be represented by counsel and, at the same time, proceed pro se as to selected matters. McKaskle v. Wiggins, 465 U.S. 168, 183 (1984) ("Faretta does not require a trial judge to permit 'hybrid' representation of the type Wiggins was actually allowed."). Relatedly, as persuasively described by a court in the Western District of Virginia, a defendant does not have the right to consideration of pro se motions while simultaneously represented by counsel. See United States v. White, No. 7:08-CR-00054, 2010 WL 1462180 (W.D. Va. Apr. 12, 2010). As the court in White stated:

Although there is a paucity of Fourth Circuit precedent directly addressing this issue, every Circuit Court of Appeals to have considered the phenomenon of a pro se motion filed by a represented party has determined that a court does not have to accept or entertain these motions. See United States v. Whitelaw, 580 F.3d 256, 259 (5th Cir. 2009) (holding that the district court's refusal to consider a pro se motion by represented party was proper); United States v. D'Amario, 328 Fed. Appx. 763, 764 (3d Cir. 2009) (unpublished) ("A district court is not obligated to consider pro se motions by represented litigants."); Abdullah v. United States, 240 F.3d 683, 686 (8th Cir. 2001) ("A district court has no obligation to entertain pro se motions filed by a represented party."); United States v. Gwiazdzinski, 141 F.3d 784, 787 (7th Cir. 1998) ("A defendant does not have an affirmative right to submit a pro se brief when represented by counsel."); United States v. Tracy, 989 F.2d 1279, 1285 (1st Cir. 1993) (holding that district court did not err in "refusing to

consider Tracy's unsigned, pro se motions"); United States v. Guadalupe, 979 F.2d 790, 795 (10th Cir. 1992) ("Because he is represented by thoroughly competent counsel, his [pro se] motion is out of order and DENIED.").

Id. at *1-2. This court agrees that considering pro se motions by represented parties would likely result in confusion and loss of control and create an unnecessary increase in work for both courts and prosecutors. See id. at *2.

This court therefore finds that Defendant's pro se motion should be denied as procedurally improper.

For the foregoing reasons, **IT IS ORDERED** that Defendant's pro se motion to suppress, (Doc. 18), is hereby **DENIED**.

This the 30th day of August, 2019.

William L. Osburn, Jr.
United States District Judge